

REMARKS/ARGUMENTS

Claims 1-12 and 15-22 are pending and stand under rejection. The Examiner has withdrawn a prior pending final rejection after Applicant filed an Appeal Brief contesting the grounds for final rejection.

Telephone Interview Summary

Applicant graciously thanks the Examiner for the telephone interview on 12 May 2005 regarding the pending Office Action. During that interview I expressed an inability to find in the cited primary reference (Friedl et al., US 5993932) two panel domains in combination with an edge domain that extends from a primary face to an opposing face at one edge. I reminded the Examiner that a "primary face" has a surface area equal to that of the highest surface area face on the panel (*see* page 4, lines 20-22 of the present Application). The only element in Friedl that extends from a primary face to an opposing face is the bag in which the foam elements are sealed. Even assuming the bag qualifies as a panel domain, Applicant fails to find any other element of the Friedl structure that qualifies as a "panel domain." A panel domain extends a panel's length, width, thickness or combination thereof (*see*, page 5, lines 23-25). Since the bag encloses all other elements of the Friedl structure (*see*, column 2, line 14 of Friedl), no other element can extend the length, width, or thickness of the panel – no other element qualifies as a "panel domain." On the other hand, if the bag is not considered part of the panel (*i.e.*, is not a panel domain) then there is no panel domain that extends from one primary face to an opposing face in the Friedl structure.

It was my understanding that the Examiner agreed that the facts of this argument overcame all pending rejections. The Examiner agreed to ask her supervisor on 17 May 2005 if she can withdraw the rejections based on the telephone interview. As of 23 May 2005, the Examiner informed me that she had been unable to discuss this case with her supervisor.

In an effort to speedily advance the prosecution of this application, I am filing a written response to the pending office action to obviate the need for the Examiner to discuss with her supervisor whether a withdrawal can be made as a result of a telephone interview. Applicant is anxious to receive a notice of allowance for the pending Claims and respectfully requests reconsideration of the pending rejections, withdrawal of all rejections and issuance of a notice of allowance for all pending Claims at an early date.

Notwithstanding this response, Applicant acknowledges an understanding that they may reinstate their Appeal of this Application at any time by filing an appeal brief addressing pending grounds for rejection according to MPEP §1208.02

More Complete Arguments

All Claims

Each of the pending Claims stands under rejection for being obvious in view of Friedl et al. (5993932) or a combination of Friedl and another reference. Each rejection depends on a structure from Friedl either alone or as modified by another reference. However, Applicant fails to find in any of the Examiner's structures the

claimed combination of (1) at least two panel domains; and (2) a panel domain extending from a primary face to an opposing face.

A “panel domain” extends a panel’s length, width, thickness or combination thereof (page 5, lines 23-25).

A “primary surface” has a surface area equal to that of the highest surface are face on the panel (page 4, lines 20-22).

The Examiner points generally to Figure 2 of Friedl when identifying an edge containing a panel domain extending from a primary face to an opposing face (*see*, page 3 of the pending Office Action). The only element in Figure 2 of Friedl that extends from one primary face to an opposing face is element 13 – which is a weld-sealed air-tight film retaining the foam panel in a compressed condition (*see*, column 4, lines 9-11 of Friedl). Element 13 starts as a bag-like film (column 4, lines 35-36). The foam material goes inside the bag and the bag opening is sealed to form an air-tight enclosure.

Applicant contends that element 13 is an enclosure distinct from the foam panel of Friedl. Since the enclosure is distinct from the panel, it cannot qualify as a “panel domain.” If element 13 is not a panel domain, there are no components in Figure 2, or Friedl in general, that extend from a primary face to an opposing face of the Friedl panel. Hence, Friedl lacks that necessary element in each of Applicant’s pending claims.

On the other hand, if enclosure element 13 is construed as a panel domain the fact that it encloses all other panel component precludes any other component from extending the length, width or thickness of the panel – element 13 establishes the outer component in each dimension. As such, if element 13 is a panel domain, there is no second panel domain in the Friedl structure. Two panel domains are a necessary requirement in each of Applicant’s pending claims.

Regardless of whether the air-tight film enclosure of Friedl qualifies as a panel domain or not, the structure of Friedl fails to satisfy the necessary combination of two panel domains and one panel domain that extends from a primary face to an opposing face found in each of Applicant’s pending claims.

Claim 4

The Examiner cites a resilient foam component in Friedl and promptly concludes that the same component allows the Friedl panel to bend from a planar to non-planar configuration. Applicant argued against a similar conclusion in their Appeal Brief regarding Grinshpun – the mere presence of a resilient component does not mean that component allows the panel to bend from a planar to non-planar configuration. The resilient foam component in Friedl is a central foam layer in a sandwiched foam structure. Applicant respectfully requests that the Examiner, if choosing to sustain this rejection, articulate how the resilient foam in Friedl “allows” the foam structure to bend from a planar to a non-planar configuration.

Claim 9

The Examiner claims that Friedl discloses panel domain “bands” as elements 63 and 60 in Figure 6 of Friedl (*see*, page 3, lines 15-16 of the pending Office Action). Applicant fails to find a Figure 6 or elements 63 or 60 in Friedl and, as a result, finds the rejection of Claim 9 without support.

Claims 11 and 12

The Examiner asserts that Friedl discloses a panel in which each panel domain comprises a polymeric foam. However, only element 13 (an air-tight film) extends from one primary face to an opposing face – a requirement in each claim. Therefore, Applicant assumes that the Examiner relies on element 13 to be part of the panel. Element 13 is not a foam, but a film. Hence, the only element that extends from a primary face to an opposing face in Friedl is not a foam. Friedl cannot satisfy Claims 11 and 12 since Claims 11 and 12 both require a combination of a panel domain that extends from a primary face to an opposing face and that each panel domain be a foam.

Claim 21

The Examiner points to element 12 of Figure 2 in Friedl as a conformable domain on one edge of the panel. (Applicant must conclude that the Examiner in this argument does not consider element 13 as a domain of the Friedl panel). Element 12 is neither a “conformable” domain nor on the edge of the panel. Friedl identifies element 12 as a “heavy layer” in contrast to the resilient layer 11 (see column 4, lines 14-26). Applicant defines a “conformable domain” as compressible and resilient. (see, page 8, lines 22-25). One of ordinary skill in the art would consider the resilient layer to be the conformable domain and the “heavy layer” to be rigid. ***The Examiner, herself, points out that Friedl’s “heavy layer” is a very dense structure that can hardly be compressed*** (see, page 4, paragraph 3 of the pending Office Action). Hence, one of ordinary skill in the art would not consider element 12 a “conformable” domain.

Furthermore, element 12 of Figure 2 lies on a primary face of the panel and, as such, cannot qualify as residing on an “edge.” Applicant defines an “edge” as a minor face of the panel as opposed to a primary face (see, page 4, lines 30 -32 of present Application). Therefore, element 12 of Figure 2 is neither a “conformable” domain nor is it on the “edge” of the panel. As such, the Examiner’s rejection of Claim 21 is without basis.

Claim 22

The Examiner claims elements 11 and 12 of Figure 2 in Friedl disclose panel domains that extend through the thickness of the panel. Applicant defines the thickness of the panel as the perpendicular distance from one primary face to an opposing face of the panel. As established, elements 11 and 12 do not extend from a primary face to an opposing face. Hence, elements 11 and 12 cannot extend through the thickness of the panel. Rejection of Claim 22 is without basis.

Claim 5

The Examiner finds Claim 5 obvious over a combination of Friedl and Ducharme (5062244) and states that both references disclose a panel having a slit that penetrates to a depth less than the panel thickness and that traverses the primary face or face opposing the primary face of a panel. Contrary to the Examiner’s assertion, Applicant fails to find any reference to such a slit in Friedl or Ducharme. Applicant fails to find reference to any slit that penetrates any face of a panel in Friedl.

In Ducharme, elements 28 and 29, to which the Examiner refers, penetrates a minor surface of the panel not a primary face or face opposing a primary face.

Furthermore, neither 28 nor 29 "traverse" ("to lie or extend across") any surface, let alone a primary surface. 28 and 29 extend only partially across the minor surfaces (ends) of the panel of Ducharme and, hence, do not extent across even the minor surfaces. In view of these facts, Applicant finds the rejection of Claim 5 without basis.

Applicant further points out that the motivation the Examiner provides for providing a slit is improper – gaps 28 and 29 (which the Examiner considers slits) do not provide improved insulation, rather the elimination of these gaps by compressing the foam to collapse the gaps increases the insulation (column 3, lines 18-19). The gaps, in fact, decrease the insulative value of the Ducharme panels and it is their elimination that increases the insulative value.

Summary

For at least the aforementioned reasons, Applicant believes that Claims 1-12 and 15-22 are patentable and respectfully requests withdrawal of the present rejections and issuance of a notice of allowance for the same claims at an early date.

Respectfully submitted,



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